

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CURTIS GUY,

Petitioner,

vs.

RENEE BAKER, *et al.*,

Respondents.

2:11-cv-1809-GMN-RJJ

ORDER

This action is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 by Curtis Guy, a Nevada prisoner under sentence of death. Guy filed a *pro se* habeas corpus petition (docket #1) on November 9, 2011. Petitioner paid the \$5 filing fee for this action.

Despite the fact that he paid the \$5 filing fee, Guy also filed an Application to Proceed *in Forma Pauperis* (docket #3). In view of the information provided in that application, regarding his financial status, the court will grant Guy's motion in part and deny it in part. The court will not waive payment of the \$5 filing fee, but will grant Guy leave to proceed *in forma pauperis* with respect to subsequent fees and costs.

While the information that submitted by Guy in support of his Application to Proceed *in Forma Pauperis* does generally indicate that he is impecunious, there is no specific information provided regarding the amount of money in Guy's prison accounts, and the financial certificate at page 5 of the Application to Proceed *in Forma Pauperis* was not completed and signed by an authorized prison officer. Therefore, Guy's *in forma pauperis* status will be conditioned upon Guy filing a Supplement to Application to Proceed *in Forma Pauperis*, with a fully completed financial certificate, and with information regarding the amount of money held by Guy in his prison bank accounts. The court will grant Guy 60 days to file that material. If Guy does not file that

1 material, or if, when filed, that material does not reflect that Guy is entitled to *in forma pauperis*
2 status, the court may revoke Guy's *in forma pauperis* status.

3 In addition, Guy filed a motion for appointment of counsel (docket #4). Guy's application
4 for leave to proceed *in forma pauperis* shows that he lacks the resources necessary to employ counsel
5 for this capital habeas corpus action. Therefore, pursuant to 18 U.S.C. § 3599, and in the interests of
6 justice, the Federal Public Defender for the District of Nevada (FPD) shall be appointed to represent
7 Guy. If the FPD is unable to represent Guy, due to a conflict of interest or other reason, then
8 alternate counsel will be located and appointed by the court. Guy's appointed counsel will represent
9 him in all subsequent proceedings, pursuant to 18 U.S.C. § 3599(e), unless and until allowed to
10 withdraw.

11 **IT IS THEREFORE ORDERED** that petitioner's Application to Proceed *in Forma*
12 *Pauperis* (docket #3) is **GRANTED IN PART AND DENIED IN PART**. The Application to
13 Proceed *in Forma Pauperis* is **DENIED** with respect to waiver of payment of the filing fee, but
14 **GRANTED** with respect to subsequent fees and costs.

15 **IT IS FURTHER ORDERED** that petitioner shall have 60 days from the date of this order
16 to file a Supplement to Application to Proceed *in Forma Pauperis*, with a fully completed
17 financial certificate, and with information regarding the amount of money held by Guy in his prison
18 bank accounts.

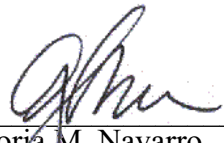
19 **IT IS FURTHER ORDERED** that petitioner's Motion for Appointment of Counsel
20 (docket #4) is **GRANTED**. The Federal Public Defender for the District of Nevada is appointed to
21 represent petitioner. The Federal Public Defender shall have **30 days** from the date of entry of this
22 order to undertake representation of petitioner or to indicate to the court its inability to represent
23 petitioner in these proceedings.

24 **IT IS FURTHER ORDERED** that the Clerk of the Court shall **SERVE** a copy of this order
25 on Michael Pescetta, Capital Habeas Division, Office of the Federal Public Defender, 411 East
26 Bonneville Ave., Ste. 250, Las Vegas, NV 89101.

1 **IT IS FURTHER ORDERED** that the Clerk of the Court shall **SERVE** the respondents,
2 by certified mail, with a copy of this order and a copy of the petition for writ of habeas corpus
3 (docket #1).

4 **IT IS FURTHER ORDERED** that respondents' counsel shall file a notice of appearance of
5 counsel within **30 days** from the date of entry of this order. Respondents need not respond to the
6 habeas corpus petition unless and until ordered by the court to do so.

7 Dated this 15th day of November 2011.

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11 Gloria M. Navarro
12 United States District Judge
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